

December 11, 2006, MB#50
Special Session

Minutes
Catawba County Board of Commissioners
Special Session, Monday, December 11, 2006, 12:00 noon.

Board of Commissioners

Special Session – Work Session to discuss UDO Issues

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The Catawba County Board of Commissioners met in Special Session on December 11, 2006 at 12:00 noon in the Second Floor Meeting Room of the Government Center in Newton, North Carolina. The purpose of this Special Session was to conduct a work session to discuss issues related to the proposed Unified Development Ordinance.

Present were Chair Katherine W. Barnes, Vice-Chair Barbara G. Beatty and Commissioners Glenn E. Barger and Lynn M. Lail. Commissioner Dan Hunsucker joined the meeting at 1:10 p.m.

Also present were County Manager J. Thomas Lundy, Assistant County Manager Joellen Daley, Assistant County Manager Lee Worsley, County Attorney Debra Bechtel, Planning Director Jacky Eubanks, Senior Planner Mary George, Planner Susan Ballbach and County Clerk Barbara E. Morris.

Following a light lunch, Chair Katherine W. Barnes called the meeting to order at 12:35 p.m.

Chair Barnes welcomed everyone present and stated that the meeting was a work session focused on affordable housing. She asked before they began the meeting that all present observe a moment of silence in remembrance of Jason Huffman, the young soldier from Conover who was killed in Iraq in the past week.

County Manager J. Thomas Lundy began the presentation stating the meeting was to be focused on affordable housing but there would be time for follow-up on the second work session on cottage businesses and discussion regarding storage containers. Commissioner Glenn E. Barger had also requested industrial building be addressed.

Mr. Lundy said the goal for affordable housing was to strike a balance between ensuring there was enough affordable housing stock in the County (stick built, modular and manufactured homes) while at the same time trying to preserve rural character, protect the County's corridors and scenic highways, protect property values and make sure there was equitable zoning of residential areas.

Mr. Lundy reminded the Board it had heard a lot about the importance of starter homes and about people who were already in manufactured housing having an ability to change those out. He started out by providing the Federal Government Housing and Urban Development definition of affordable housing which was that no more than 30% of household monthly income should go toward the mortgage and housing expenses. Using this definition, and applying it to Catawba County's median annual household income of \$40,536, 30% would equate to a monthly mortgage payment of \$603 plus utilities and other expenses, for a total of \$1,013 per month. Given the current bank rates, this would support a \$106,000 house (stick-built, modular or manufactured home) in Catawba County.

The current inventory of housing at or below \$106,000 in the County (outside of city limits) is 9,579 stick built or modular homes and 9,891 manufactured homes (inside and outside of the manufactured home overlay) for a total of 19,470 affordable housing units, which are about evenly split between manufactured and stick built/modular.

Chair Barnes asked for the total number of housing units in the County and Mr. Lundy replied there were 28,376 total households in the County's jurisdiction. He went on to say that based on this figure, with the median income in the County at \$40,536, there were 14,188 households at or below this income and with a need for affordable housing. The County has 19,470 affordable housing units valued at or below \$106,000, resulting in a surplus of 5,282 existing affordable units in the County ($19,470 - 14,188 = 5,282$). Jacky Eubanks, Planning Director, pointed out the difference between households and families because there are a lot of individuals living in these households – i.e. single parents, elderly, etc. – so it is more important to tie these figures to the household.

What was being proposed in the discussions at this meeting and in the revised UDO was the establishment of a doublewide manufactured home overlay district (DWMH) which would allow additional opportunities for affordable

housing. It was proposed that 18% of the County's residential area be zoned for manufactured homes. This would provide acreage for an additional 25,071 manufactured homes (assuming one unit per acre, which was conservative) to add to the existing surplus of 5,282 for a total of 30,353 affordable housing units. This exceeds predicted future needs for manufactured housing and staff tried to make sure there was a balanced distribution of manufactured home zoning between the small area planning districts. Mr. Eubanks explained the distribution of manufactured home zoning in the small area plans ranged from 14% up to 30%. The 30% was in the Plateau Small Area Plan (SAP), with distribution being fairly even in the other 6 SAPs, from 14% to 20%. Mr. Eubanks explained the Plateau SAP had more than 20% because Plateau, from the very inception, had a much larger percentage of the double-wide overlay resulting from the fact that many of the citizens who came forward at community meetings on the SAP and the SAP planning committee recommended that distribution because it appeared there would be less utility opportunities in Plateau in the future and it was more rural in character and therefore more desirable for mobile homes.

Mr. Lundy said in the past the Board had asked staff to look at other counties' zoning for comparison to what was being proposed in Catawba County. Six of the nine urbanizing counties restrict placement of manufactured home to parks and overlay districts just as what was proposed in the UDO. The percentages ranged from 5% to 30% in those counties – with Catawba County's proposal at the mid point at 18%. Mr. Lundy stressed the 18% was future – an overlay for future location of manufactured housing - noting that anyone having a lot already approved, or having a manufactured home unit now, would be able to switch the unit out.

Mr. Lundy said one of the questions that had been raised was the extent to which manufactured homes should be allowed while someone is building a stick built home. Eight of the urbanizing counties allow a mobile home while building was occurring, and eight of the urbanizing counties have a limit on the time for that building. Staff was proposing a limit of two years while building a stick built home in Catawba County. The mobile home would need to be removed before the final occupancy permit would be issued for the stick built home. Vice-Chair Barbara G. Beatty asked whether that meant manufactured home or trailer, RV or camper. Mr. Eubanks said it meant manufactured home – not a trailer, RV or camper. Planner Susan Ballbach also indicated this would be allowed county-wide – not just in the overlay district – anywhere there was construction – and it could be a singlewide. County Attorney Debra Bechtel clarified that if a subdivision had its own covenants and restrictions against this, it would not be allowed.

Continuing with the counties' zoning comparison, six urbanizing counties allow manufactured homes as an accessory dwelling subject to a special use permit and only in manufactured housing districts. Catawba County has had a hardship provision for approximately 16 years which required a signed statement of the hardship situation. These six urbanizing counties allow these accessory dwellings subject to a special use permit but require no proof of hardship and this is what was currently proposed for Catawba County.

Density bonuses for new construction are also proposed. As new development occurs, developers would be allowed one new lot for each affordable home constructed, up to a maximum bonus of 20% – i.e. 100-acre parcel in 1 acre zoning – the base would be 100 lots allowed, and with 20 lots proposed for affordable housing and the maximum bonus of 20%, the total lots allowed would be 120.

Mr. Lundy said staff had looked at the existing housing stock and the Multiple Listing Service (MLS) indicated there are 340 homes (countywide) currently for sale for at or less than \$106,000. Forty of these homes are located in the unincorporated area of the County.

Mr. Lundy itemized the staff's recommendations:

- Allocate 18% of County's land area as DWMH overlay
- Allow post 1976 MH meeting 3/18/96 appearance criteria placed within existing MH subdivision (3 or more lots) "to build-out" outside DWMH overlay on:
 - Vacant lots never before occupied build-out with SW or DW; and
 - Vacant lots previously occupied with a MH as of 2/28/05 can be reoccupied with SW or DW
- Post 1976 MH not meeting 3/18/96 appearance criteria (metal on metal), located within Catawba County as of 3/18/96 may be relocated to a:
 - MH subdivision of 3 or more lots approved on or before 3/18/96 in DWMH overlay, or;
 - A MH park existing as of 3/18/96 in or out of DWMH overlay
- Allow a SW meeting 3/18/96 appearance criteria, on construction site of a principal dwelling unit, up to 2 years with active building permit within the DWMH overlay.

- SW must be removed before a final occupancy permit will be issued.
- Allow SW or DW in new MH parks (subject to manufactured home park zoning)
- Allow SW or DW meeting 3/18/96 appearance criteria as an accessory dwelling with a special use permit in family relationship (defined as lineal or siblings) within the DWMH overlay

Commissioner Barger asked what happened to manufactured home subdivisions that are not in the overlay district. Mr. Eubanks replied they were allowed outside the DWMH overlay district if originally approved as a manufactured home subdivision – and they would be allowed to build out in mobile homes. These mobile homes could be changed out even if not in the overlay district.

Ms. George asked that they go back a bit in the presentation and address what was stated regarding a SW on a construction site – other urbanizing counties had allowed this countywide but staff recommendation was that this only be allowed within the DWHM overlay district in Catawba County. Commissioner Barger said this wasn't conceding anything because in the overlay district they could put it there anyway. Chair Barnes clarified that the difference was the construction scenario allowed a singlewide where the overlay district only allowed doublewides. Ms. George said some of the reasoning behind this recommendation was that if people bought into an area outside of the overlay district their expectations were there would not be any mobile homes around them. Mr. Eubanks said what it did do in the overlay district (25,000+ acres) was allow someone with a vacant lot, who couldn't afford to live elsewhere, to place a singlewide on that lot for the building period, up to two years. He added if they already had a mobile home anywhere in the County and they wanted to build a stick built house, they could live in their existing mobile home while building their home.

Chair Barnes asked Mr. Eubanks to address new mobile home parks and explain how they were established. Mr. Eubanks said it required a special district, so the developer had to come before the Planning Board and request a special district for a mobile home park that was within the DWMH overlay district. Site plan reviews and standards would apply – setbacks and peripheral landscaping, entryway standards and signage. Vice-Chair Beatty asked how this applied to families who wanted to place a singlewide on their property until their child could afford to build a home. Mr. Eubank responded they would have to live in the overlay district and have a building permit for the home they wanted to build – or – if they had a lot of record in a manufactured housing subdivision outside of the overlay, whether it was occupied or not with a manufactured home. Mr. Eubanks noted this was a change from where the plan was several weeks ago. He went on to say that staff's goals with the changes were to achieve balanced distribution, sufficient affordable housing stock, enough stock for future growth and development based upon trends and to allow for the continuation of subdivisions that were started as manufactured home subdivisions without any kind of percentage tied to it at all. The proposed changes have provided more flexibility while holding fast to a distribution of about 18%. Commissioner Barger said what wasn't addressed was a situation where elderly parents need care and a son/daughter wanted to put them in a DW or SW on their property to take care of them. Mr. Eubanks replied what was proposed was the option anywhere in the County for an accessory dwelling with a special use permit, provided it was modular or stick built. He pointed out that the current ordinance did not allow a mobile home as an accessory building – but the proposed UDO allows a mobile home as an accessory building within the DWMH overlay district (18% of the County).

Commissioner Barger said he still had concerns regarding people who had large pieces of acreage (i.e. 15 acres) and no neighbors and not being able to put a mobile home on that land to care for a parent. Mr. Eubanks acknowledged the concern and likened it to the concern expressed about businesses out in rural areas with enough acreage – and not being allowed. He said the point they had to go back to was it was based on the district and not on the acreage and the need to base it on the classification of uses vs. the actual size of the tract. He added this was the classic way that zoning districts nationwide look at it – not the size of the acreage, but the usages and how they fit together.

Mr. Lundy said the changes from the original proposed UDO 1) looked at the affordable housing stock and tried to have a better balance between the small area plans, 2) now allowed change outs – both single and doublewide – and 3) also allowed manufactured housing on an existing lot of record. Before the proposed changes, change outs applied to just doublewides but now applied to both single and doublewides. These restrictions are consistent with what other urbanizing counties were doing with the exception of the placement of a manufactured home while a person was building a stick built home. Mr. Eubanks added that an additional proposed change was subdivisions that had started as manufactured home subdivisions would be allowed to build out 100%.

Commissioner Barger said he would like to allow singlewides anywhere in the County instead of just in the overlay district when a person was constructing a home. He acknowledged that the proposed changes did liberalize the restrictions on manufactured homes but was concerned about this restriction. Chair Barnes agreed that the changes proposed added greater flexibility to what was initially proposed. Commissioner Barger then said he was trying to absorb the numbers pertaining to median income and Assistant County Manager Joellen Daley said with the median income at \$43,536 there were 66.5% below this median level and above the moderate income level – which was 80% of the median or \$34,829; 33.5% were at 80% or below the moderate income level. She went on to say that of that 33.5% below the moderate income level, 24% of those were between 50% and 80% of the moderate income level or between \$21,768 and \$34,829. Commissioner Barger said that presented a challenge because those people may never be able to buy anything and another challenge was whether there was enough rental stock in the affordable range for these people. Chair Barnes stated that was an issue across the State and is continually discussed. Commissioner Lail asked if the percentages provided included the municipalities – and this was the case. Mr. Lundy pointed out the median income for the County was actually higher so they were erring on the side of lower income citizens with the figures that were being used. Commissioner Hunsucker said he thought the proposed changes had expanded the DWMH overlay into more areas and he was afraid that if the County did not do this zoning and consider what all the surrounding counties were doing, Catawba County could be overrun with manufactured homes. He believed the proposed changes improved what was initially proposed.

Mr. Eubanks then moved on to shipping/storage containers. He said the Planning Department was seeing more and more of these types of units (shipping/storage containers, pods, etc.) coming into the County in residential settings and the question was whether these type of containers were appropriate in residential areas. There had been discussions regarding the security aspects of these containers and the cost benefits over a typical storage building but it came down to aesthetics and whether the County wanted to see a long term trend for more of these containers. The building code does not classify these containers as structures so they have come in without the checks and balances of the building code. These containers have been here for decades in commercial areas and they are more appropriate uses in commercial and industrial settings. The concern was whether they should be allowed in residential settings. In some cases, code enforcement can address these containers with the junk vehicle ordinance (when the container has been converted from a u-haul or truck). But when they have been brought in on a sled or were on the back of a tractor-trailer, the junk vehicle ordinance does not apply. Mr. Eubanks said they were unsure how many of these containers were out in the County but estimated there were approximately 50. Staff recommended these should not be allowed in residential areas but there should be consideration regarding grandfathering existing containers with a bill of sale or some other evidence indicating they were in place prior to the new restrictions. The proposed restrictions on storage containers in residential areas would be:

- Prohibit on a permanent basis
- Allow for a 7-day temporary use
- Grandfather existing containers
- Allow on bonafide farms but must be totally screened from view of all roads, public places and adjoining properties through the use of berms, building walls, false facades or dense landscaping.

Proposed restrictions in Commercial/Industrial areas

- Allow with standards:
 - Total screening
 - Located in side and rear yards with setbacks
- Allow on bonafide farms but must be totally screened from view of all roads, public places and adjoining properties through the use of berms, building walls, false facades or dense landscaping.

Mr. Lundy said Hickory and Conover prohibited these containers in residential areas. Mr. Eubanks said a survey conducted across the state in the 8 or 9 urbanizing counties indicated that those counties did not have that many containers. Vice-Chair Beatty asked about emergency situations where a home had burned and one of these containers was brought in to store the salvageable possessions until the homeowner could rebuild. Mr. Eubanks said there would be exceptions to the restrictions and there could be a temporary permit which Planning would issue. He added Planning would work with people and understand hardship situations on a case by case situation. Commissioner Barger said the Board was considering cottage businesses and it appeared to him that pods or storage containers could be a very useable structure for these businesses. Mr. Eubanks said it boiled down to the aesthetics in a residential setting and once they were in a residential setting, their use would be very difficult to police. He said it became a question of whether it was what the Board wants to see grow and expand in a

residential setting. Attorney Bechtel said safety issues would come into play if cottage businesses were using these containers in a way that the public would be entering them like they would enter a building.

The Board then moved to the subject of metal as a primary or secondary building material on industrial or commercial buildings. In the UDO proposed in July, metal was prohibited as a primary building material in the following districts: Hwy 321, mixed use corridors, planned developments and village centers. A primary building material means that material would comprise the greatest percentage of material on the side of a building – on any one side. Mr. Eubanks said that the aesthetics, flexibility and functionality of metal had changed and the new available textures made metal a good accent material but the proposed prohibition was on metal being the entire or primary building material. The proposed change to this restriction was if the metal was made to look like another material such as stone or wood, it could be the primary building material within the specific districts. Everywhere else, metal would be allowed as the primary building material in all general commercial, office and industrial districts. Commissioner Barger asked about a church using a metal building in a residential area. Ms. George said it would be allowed unless the church was in a mixed used corridor.

Mr. Lundy summarized that there were three issues to conclude – metal buildings, storage containers and affordable housing as well as a follow up on cottage businesses and family subdivisions and Commissioner Barger had raised a question about setbacks internal to subdivisions. Chair Barnes asked if there were any questions regarding the metal buildings or if any further clarification was necessary. She summarized that in a mixed used corridor, planned developments, village centers and HWY 321 ED district metal would be allowed as an accent but not the primary building material. Commissioner Barger confirmed that it would not be allowable to have the front as a different material and the other three sides metal in those four districts. Chair Barnes confirmed that these criteria were agreeable to everyone.

Chair Barnes then summarized what was agreed upon regarding storage containers. In residential areas, temporary use for seven days was permitted, existing storage containers would be grandfathered with proof they were in place prior the adoption of the ordinance and they would be allowed on bonafide farms with total screening from view of all roads, public places and adjoining properties. She clarified that the total screening required in a commercial area meant on all sides of the container to the height of the unit. Commissioner Lail said she thought this requirement was a little problematic in that some sides would be hard to get to. Ms. George said the door front area could go unscreened to allow access. Commissioner Hunsucker asked about the required setbacks for containers – a minimum of 10 feet from the principal structure and 15-20 feet from the side property line. He wondered if it would be better if these containers were closer to the principal building? Vice-Chair Beatty suggested this 10 foot requirement had to do with safety issues – i.e. fire in the principal building or the container. Chair Barnes suggested checking whether a specific separation was required by the fire code. Ms. George said typically for an accessory structure to be considered detached there is a 10 foot separation required between the two buildings. Commissioner Hunsucker said he felt it was an unnecessary requirement. He felt there should just be the setback requirements from the property line but any required distance between the building and the container should be eliminated. Commission Chair Barnes agreed with this recommendation if no safety issues were present. Vice-Chair Beatty suggested that a plaque be required on the container indicating what was stored within the container. Commissioner Barger questioned why the containers depicted in the photos presented to the Commissioners were any worse than approved storage buildings throughout the County that looked worse than the containers at issue. Ms. George said it again came down to aesthetics and the public's perception of the containers at issue and the fact that their intended purpose was originally for transportation on a truck or train, not to sit in someone's backyard. Commissioner Lail noted the Board was trying to err on the side of being fair to the property owners with a need for the containers but there were still the adjacent property owners to consider. Vice-Chair Beatty pointed out that the placement or restriction of placement of these containers was controlled in most cases by deeds and restrictive covenants of subdivisions so there were actually very limited places where they would be allowed. Ms. George reminded the Board that the use of these containers was a recent trend so a lot of the older deeds would not have addressed this issue. Vice-Chair Beatty said she would like to see some language that took care of emergency situations when it came to the seven day restriction on containers in residential areas. She suggested that this be an issue that was revisited in a year or two to see if there should be more fine-tuning. Chair Barnes agreed the issue had to be addressed in the UDO to prevent it from becoming a problem that couldn't be cleaned up. Ms. Daley added, with the proposed expansion of approved home businesses, there was the possibility that there would be more use of these containers and the UDO should set forth the restrictions on their use now. Vice-Chair Beatty suggested leaving these restrictions in the ordinance as proposed and revisiting the subject at a later date after reviewing experience with the restrictions over the next year or so. Commissioner Hunsucker reminded staff that the emergency situations brought up by Vice-Chair Beatty needed to be addressed

and he suggested taking out the minimum separation requirement between the primary building and the accessory container. Ms. Daley said staff would be given those two changes as well as the plague requirement indicating what was stored in the container. Commissioner Barger confirmed the proposal included grandfathering containers already in place in the County. Mr. Eades, a citizen present, pointed out he had three storage containers and while they were very secure, they could be broken into. He said as far as using them in residential areas, he would not like to live next to one because of their appearance. Chair Barnes confirmed with the Board members that the three changes listed were what was to be proposed for storage containers in the UDO.

Chair Barnes then returned to affordable housing. Mr. Lundy said one issue that was raised was the two year period of time when a singlewide manufactured home could be placed on a lot when a property owner was building a stick built home – did the Board want that restricted to the DWMH overlay district or allowed county-wide? It was suggested to be countywide, as long as the subdivision deed restrictions did not prohibit it. Mr. Lundy pointed out that it could be placed adjacent to a subdivision even if the subdivision had such restrictions. Ms. George added the County did not have the authority to enforce private deed restrictions and it would be up to the appropriate homeowner's association to do so. Attorney Bechtel confirmed this and stated the County could issue the permit for the manufactured home but it would be up to the homeowner's association to stop the placement or force removal of the manufactured home. Vice-Chair Beatty brought up the effect on the value of homes in a subdivision adjacent to one of these mobile homes, even though it could only be there two years. Commissioner Barger asked if the ordinance could be written to allow this except in subdivisions outside of the overlay district? Ms. George said that if they were going to set criteria for a special use permit to allow it, the Board could also say where it was not allowed as one of those criteria. She confirmed the special use permit would be issued at the same time the building permit for the stick built house was issued – starting the two year time period. Mr. Lundy said the ordinance could be written so that the placement of a singlewide, while building a stick built home, would be allowed countywide, except in major subdivisions. Commissioner Hunsucker asked the Planning staff how many times they had had requests to do this. Ms. George replied, in most cases, the mobile home was already there and the person was wanting to build a house, so they continued to live in the mobile home until the house was completed. It was confirmed that a condition of the special use permit could be the two-year time limit to ensure the mobile home was removed at the conclusion of the construction. Commissioner Hunsucker clarified that a camper would not be allowed instead of a singlewide mobile home. Mr. Lundy indicated staff's recommendation was this only be allowed in the DWMH overlay district but Commissioner Barger recommended it should be countywide with the exception of major subdivisions. Commissioner Lail and Chair Barnes said they would prefer to see it the way it was proposed by staff. Commissioner Hunsucker said he thought it should be countywide.

The discussions then moved into family subdivisions and clarified that a parent could split each parcel of land they owned into three parcels for giving land to family members and the parent did not have to reside on one of those parcels. These could have mobile homes placed on them if they were in the overlay district. Chair Barnes said this was a transfer of property from parent to child or grandchild and brother or sister but not uncle to nephew. Mr. Lundy asked if the Board was comfortable with leaving the family subdivision in the ordinance. By leaving it a family subdivision and not making it a minor subdivision, the roads would not have to be paved but would have to have a 45 foot dedicated right-of-way.

Chair Barnes then asked staff to discuss the DWMH overlay district. She said she knew this had been an issue in the small area plans and, upon reviewing the information provided to the Board members, it did not appear to be used in many of the urbanizing counties. Ms. George said other counties utilized several different methods to achieve the same thing such as a general zoning district as opposed to an overlay. Staff had chosen an overlay district because the way the ordinance was set up, it was easier to require landowners to meet all the setbacks and other rules of that area and then just overlay the fact that manufactured homes were allowed but leave all the other requirements of that area in place. An overlay district seemed to be a better tool for what was trying to be accomplished. Chair Barnes said she thought the stumbling block she was hearing in terms of singlewides, doublewides or a young couple placing a manufactured home on family property, was whether it was in or out of the overlay district. Mr. Lundy added that a manufactured home also could be placed on a lot of record or if there was currently a manufactured home on the property. Mr. Lundy clarified that a lot of record was in a mobile home subdivision that had been approved and not built out.

Vice-Chair Beatty said she felt they had come a long way on this issue and the people who had been concerned about mobile home parks were going to be able to operate, keep mobile homes and trade up and there were places where mobile homes could be placed. Commissioner Lail said she was in favor of the proposal the way it stood. Commissioner Hunsucker said he also thought they had come a long way and was pleased they had spread out

the allowable areas to more parts of the County and he thought they had something they could live with. Melissa Essick, of the Manufactured Home Association, said a lot of its members' concerns were the restrictions on the placement of mobile homes outside the overlay district. She said she was also concerned that only 18% of the County was zoned for mobile homes and after three months of work on the proposed UDO, it remained at 18% and she saw little compromise. Commissioner Hunsucker disagreed with this because previously singlewides could not be replaced with a singlewide but that was now the case. Vice-Chair Beatty confirmed existing mobile home parks would have to comply with the screening and entrance requirements within five years. She asked about those parks that didn't have room to do this and Ms. George said that the Planning Department would work with them to fit and fit it in.

David Hood from the Plateau area asked if the definition of the DWMH overlay district took into consideration existing affordable housing. He said it got to the point of distribution of affordable housing throughout the entire County on an equitable and balanced basis. He said the Plateau area had a disproportionate percentage of manufactured homes at 30%. Chair Barnes responded that Plateau was an area where it was less likely they would be able to get utilities and the other areas on balance are about 20%. Vice-Chair Beatty said some of this determination came from the small area plan and the citizens of the Plateau area indicated this was what they wanted. Ms. George said in comparison with where the issue stood a year ago, a lot of the overlay district was removed from the Plateau area. Commissioner Barger said that Mr. Hood's point was well taken and before he was ready to vote on what was proposed, he had questions about the income level and the population of the County. Commissioner Lail pointed out how few permits were issued for single and doublewide manufactured homes in the last year and it showed very little demand so the likelihood of that area developing into Mr. Hood's term of "a ghetto", was not likely. Chair Barnes said the only resolution she saw was adding additional area to the DWMH overlay district and that would only be minimal.

Chair Barnes concluded she felt they had come close to getting a balance of availability of affordable housing and had allowed for doublewide and singlewide tradeouts. She believed the proposal had been expanded a lot from what had been originally proposed. Mr. Lundy attempted to clarify specific issues – he said he heard two for, two against whether the Board members wanted to have the two year building time frame and two separate issues within that – 1) require a special use permit and 2) should it be only in the DWMH overlay district or countywide but prohibited in major subdivisions. It was clarified that a major subdivision should be considered three lots or more or where a right-of-way was being created for non-family members. When asked what other solutions could be suggested, Commissioner Barger said it could all be thrown out but that was not what he was proposing. Commissioner Hunsucker responded he hated to have the restrictions but he was afraid without that them, the County would become a dumping ground for mobile homes. Commissioner Barger agreed but said there were hard issues that he didn't know how to resolve. Ms. George outlined the two hardship situations they had covered – 1) the situation during construction to allow a doublewide; and 2) a family situation, a temporary sort of thing – for a hardship – for an accessory building – but the question remained – whether to use an overlay district. Commissioner Barger suggested adding more areas of the County to the overlay district. Commissioner Hunsucker recommended the Board proceed with what they had and keep records of situations that arose and address them in future revisions to the UDO. Chair Barnes agreed with Commissioner Hunsucker and said anytime a new ordinance was drawn up, it was difficult to cover everything. She said she thought it was something that would have to be revisited and maybe even, as it was adopted, the Board should address that it would be revisited. Vice-Chair Beatty said the bottom line was the landowner and how he wants to sell his land and the Board had no control over that. Commissioner Barger said if Catawba County wanted to be attractive for growth, then there had to be places for the workers to live. He said the problem he had with adopting the ordinance was not having to tweak it later but having people get hurt in the process. Chair Barnes asked Commissioner Barger to enumerate his outstanding issues. Commissioner Barger replied 1) does Catawba County have enough area in the overlay district? 2) did the County have enough affordable housing presently but also enough affordable housing ongoing? Ms. Daley pointed out the trend in the County was toward stick built homes rather than manufactured homes and there were more types of affordable housing than just manufactured housing. Vice-Chair Beatty said she thought it should be a goal of the Board to look at home ownership through Western Piedmont Council of Governments (WPCOG), through Habitat and through any avenue available to encourage home ownership and to increase awareness of programs which assist people with home ownership.

Chair Barnes came back to the issue of the overlay district. Was there enough area in the overlay district? Could it be expanded by special use permits? Mr. Lundy said he was unsure where the Board was on this issue. He stated there were 25,000 acres available for manufactured housing – it might not be where everyone would like it to be – but it was 25,000 acres that could be built upon. That would allow for at least 25,000 more manufactured homes

(worse case scenario at one home per acre). It was within the range of other urbanized counties – 5% to 30% - and Catawba County was proposing 18%. He suggested the Board go forward and, if there were problems, they would be tracked and the ordinance would be revisited. Vice-Chair Beatty said they spent a lot of years working on this and they were not going to please everyone and she thought the staff needed closure so they could talk to citizens on what they could do moving forward and it was time to get out of limbo. Commissioner Barger said they may not be pleasing everyone but that's why there were five members of the Board and four could vote for it and he might vote against it. Commissioner Hunsucker said he had a lot of people who served on the small area plans who came to him and said not to change it too much – they were asked for their input and this was what they gave the Board. Chair Barnes said she was also contacted by people who have been waiting for two years to finalize the development of property and there were a lot of people on hold until the UDO was adopted. She said it may need changing but there had to be a starting place.

Melissa Essick asked about the public hearing of December 18, 2006 and if voting would take place at that time. Chair Barnes said that had not yet been determined but she doubted there would be a vote on that date. Mr. Lundy said the public hearing would reconvene on December 18, 2006 because it had been continued to that date certain and it could then be continued again. Mr. Lundy's thoughts were that the Board would have all the proposed changes by the end of the calendar year and those changes would be posted on the website and most likely taken up at the Board's January 16, 2007 meeting.

Mr. Lundy then moved on to follow up on cottage businesses. There was a question raised whether the County should have a business operations permit to register businesses. The Board was provided information on what other cities did but the staff recommendation was to not establish a separate business operations permit because of the resulting staff time to administer the permitting and the additional expense to small businesses.

Chair Barnes confirmed a two year grace period was proposed for cottage businesses actively working to come in compliance with the ordinance. Commissioner Barger asked that they review what had been agreed upon. Mr. Lundy replied that the current criteria was going to be expanded for home businesses and also establish the cottage business criteria which would address some of the existing violations but not all. Those businesses that did not qualify under the new criteria for home and cottage businesses would have the option to apply for rezoning, apply for conditional use zoning or work to relocate their businesses. Commissioner Barger asked if a consensus was reached on those criteria and Mr. Lundy said that was what he heard the majority of the Board say. Chair Barnes said there were some businesses that were illegal today, period, and would have to go through a rezoning request to come into compliance. Commissioner Barger asked if the list of approved businesses was approved and was to be left as is and Chair Barnes said she thought that was the case. Chair Barnes asked Attorney Bechtel if they could go backwards – could they go back and make someone legal if they had been illegal. Attorney Bechtel replied that would not be advisable. Commissioner Barger said he had seen an ad which was trying to establish the number of people who would be put out of work due to the criteria for these businesses. Attorney Bechtel said the hard thing about that was some of those businesses would have the opportunity to go through the various options to come into compliance and some won't, but she thought that even some of the ones that could come into compliance won't want to do what was necessary, so it would be difficult to get a good handle on accurately depicting the number of those truly put out of business. Vice-Chair Beatty pointed out that the UDO was not making these businesses illegal because they were illegal under the current ordinance. Attorney Bechtel agreed and added that under the UDO there would be the opportunity for more businesses to become compliant. Ms. Daley said she recalled there had been discussions about businesses that were illegal today and would be illegal under the UDO and there was the fairness issue of all the people who had complied with the current ordinance with regard to establishing their businesses in appropriate locations. It was further discussed that a line had to be drawn somewhere and it was the invasive nature of some of the illegal businesses that was a deciding factor in categorizing an acceptable cottage business. Ms. Daley's recollection of the past discussions was that as a whole the Board was ready to move forward on this portion of the ordinance once a few outstanding items were clarified.

Mr. Lundy said one residual issue was whether to have a business operation permit and staff recommended against this. Attorney Bechtel explained there were very few businesses that were currently required to have a business license in Catawba County and this proposed business operation permit would substantially expand the list.

The second residual issue was the recommendation of a double fee for someone who started a business illegally and was now legal and was getting the appropriate permits. Chair Barnes questioned how many of these people who started a cottage business were aware of the ordinance and intentionally started it illegally and whether they

should be penalized with a double fee. She said, on one hand, there was the fairness factor and, on the other hand, there was the double fee being a burden on those who were trying to come into compliance. Mr. Lundy recommended leaving it a single fee and this issue could be revisited after a year or two and amended if appropriate. The Board agreed to leave it a single fee.

Mr. Lundy said the other outstanding issue was Commissioner Barger wanted to know what kind of complaints staff had had, how many complaints were received and what it would take to fully enforce the restrictions on home businesses and cottage industries in the proposed ordinance. This list of the number and type of complaints was provided to the Commissioners and, if full enforcement was desired, an additional staff person, plus additional attorney time would be required. Staff recommended that enforcement remain as complaint driven. Mr. Lundy said staff had looked at other counties and the majority of those used complaint driven enforcement. Commissioner Hunsucker suggested leaving it complaint driven. Commissioner Barger said if it was a good policy then it was a policy worth enforcing. He said if enforcement was complaint driven, there would be a lot of inequity. In response to a question of the expense involved in enforcement, Ms. Daley said it was estimated to be approximately \$80,000. Vice-Chair Beatty said she thought the County was currently in this situation with cottage businesses because the policy hadn't been enforced. Chair Barnes said she also thought that the code should be enforced. Mr. Lundy said even though staff had recommended leaving this complaint driven, he tended to agree with Commissioner Barger and there was probably some value in spending the additional money to make sure that the ordinance was enforced. Commissioner Hunsucker yielded to the consensus regarding enforcement.

Mr. Lundy said the next outstanding issue regarded veterinary clinics and he thought there was a consensus on the size requirement now being five acres vs. ten acres and a special use permit would also be required.

Mr. Lundy went on to follow up on various other changes. He thought that was a consensus on everything with the exception of internal setback within subdivisions. Commissioner Barger had raised the question about the goal to preserve the rural character along highways (80 foot setbacks, berms, or screening and 100 feet in the rural preservation area) but asked why there should be more than a 30 foot setback requirement internally in a subdivision. Staff had looked at some existing one-acre lot subdivisions and the required setbacks were between 70 and 90 feet which the developers had established on their own. Commissioner Barger said with the 80 foot setback requirement proposed along the roadside, they had accomplished the goal of preserving the rural character and once you get inside of a subdivision, those setbacks should be market controlled. Commissioner Hunsucker agreed since there was a push for more clustered subdivisions. Ms. George confirmed that 30 foot setbacks were the requirement for all other zoning districts. Mr. Lundy pointed out there were also questions regarding berms and screening and suggested if they reverted to the 30 foot setback then berms or screens wouldn't come into play. Berms and screens would only apply to 80 foot road setback and the 100 foot setbacks in the rural preservation areas.

Chair Barnes then asked about the lighting requirement and Mr. Lundy said the Board had raised this issue and it had been revised and the requirement was uniform, low level lighting. Chair Barnes asked why would there be any requirement for lighting? Ms. George said the purpose was to address light pollution in the one acre zoning, so if someone had lighting, it was required to be low level and uniform but it was not mandatory to have lighting. It was agreed this should be reworded in the ordinance to reflect it was not mandatory.

Commissioner Barger asked about planned developments. He said at one time they had talked about subdivisions with 100 lots having to have sidewalks and now it was down to 50 lots. He questioned whether it was a subdivision with 50 to 100 lots, and sidewalks were required, it would drive up the price of the lots. Ms. George explained that sidewalks in the present UDO version were required when there were 25 lots, with ½ acre lot sizes and that came from the small area plan recommendations and developers were okay with that requirement. She said in the planned developments, a two-for-one credit for open space would be given for these sidewalks. She also pointed out in the planned developments, the sidewalks were negotiable, like all amenities, in the one acre zoning areas.

Chair Barnes said she wanted to talk about moving forward. Mr. Lundy suggested the public hearing be reconvened on December 18, 2006 and it be announced to the public that the work sessions had occurred and staff had been instructed to incorporate the changes that had been agreed upon. He said they could take public comments if they desired at the meeting. Staff would give the Board a listing of all the changes followed by or along with a new UDO draft. Mr. Lundy said the intent was to get those changes to the Board by the 1st of the year and they would be posted on the website and the stakeholder groups would be noticed of the availability of these changes on the web. Commissioner Lail said she would prefer to have the changes separate from the UDO

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document because it was difficult to find the changes in the full text of the document. Chair Barnes asked about the intended effective date for the UDO and Mr. Lundy said it typically was immediately upon adoption. Attorney Bechtel confirmed this and, both from a consistency standpoint and because it is a lot easier from an implementation standpoint, recommended it be effective upon adoption. Commissioner Hunsucker suggested not taking a lot of public comment at the December 18th meeting because the changes would not have been published and many questions should be answered by those changes. Chair Barnes said this might be a problem for those who had not been to the previous meetings and Commissioner Barger thought it was important to accept questions. Mr. Lundy suggested a news release saying there was a public hearing on the 18th, it would be continued and the information on the changes would be available at the 1st of the year for citizen review and no vote would occur until January 16th. The Board agreed this would make sense.

Vice-Chair Beatty asked if there was a synopsis of the overlay districts and the percentages of those overlay districts in each small area plan. Ms. George said they would compile that information for the Board's review.

Mr. Lundy said the Public Information Officer, Dave Hardin, would draft a news release and would call the reporters who had been present so it could be in the papers the next day.

Chair Barnes asked if there was a need for another work session and it was indicated this would be difficult due to everyone's schedules. Mr. Lundy suggested staff meet later in the day and establish a time table for what was to be accomplished and he confirmed the Board would like to see a recap of what had been done to date before it was posted on the website. Mr. Lundy said staff would work to get the recap to the Board as quickly as possible.

Chair Barnes adjourned the meeting by consensus at 4:00 p.m.

Katherine W. Barnes, Chair
Catawba County Board of Commissioners

Barbara E. Morris, County Clerk